

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID C. ANDERSON,
Plaintiff(s)
v.
FEDEX GROUND,
Defendant

2:12-CV-1465 JCM (CWH)

ORDER

15 Presently before the court is the report and recommendation of Magistrate Judge Hoffman.
16 (Doc. # 8). No objections were filed. However, plaintiff filed an amended complaint (doc. # 9) on
17 the same date, but later in time on that date, as the report and recommendation.

18 Also before the court is the second report and recommendation of Magistrate Judge Hoffman.
19 (Doc. # 10).

20 | I. First Report and Recommendation (doc. # 8)

Plaintiff filed an amended complaint on the same date, but later in time on that date, that
Magistrate Judge Hoffman issued the report and recommendation. The court will assume that the
second amended complaint mooted the first report and recommendation.¹

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¹ The court takes this position even though the second amended complaint appears to be identical to the first amended complaint, which is only a single paragraph in length, and would not have comported with the findings and screening of the first report and recommendation.

1 **II. Second Report and Recommendation (doc. # 10)**

2 Magistrate Judge Hoffman issued a second report and recommendation that screens the
 3 second amended complaint. No objections have been filed and the deadline date for filing objections
 4 has passed.

5 This court “may accept, reject, or modify, in whole or in part, the findings or
 6 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects to
 7 a magistrate judge’s report and recommendation, then the court is required to “make a de novo
 8 determination of those portions of the [report and recommendation] to which objection is made.”
 9 28 U.S.C. § 636(b)(1).

10 Where a party fails to object, however, the court is not required to conduct “any review at all
 11 . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
 12 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
 13 judge’s report and recommendation where no objections have been filed. *See United States v.*
 14 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir.2003) (disregarding the standard of review employed by the
 15 district court when reviewing a report and recommendation to which no objections were made); *see*
 16 *also Schmidt v. Johnstone*, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s
 17 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review “any
 18 issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s
 19 recommendation, then this court may accept the recommendation without review. *See e.g.*,
 20 *Johnstone*, 263 F.Supp.2d at 1226 (accepting, without review, a magistrate judge’s recommendation
 21 to which no objection was filed).

22 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
 23 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation,
 24 plaintiff’s complaint is deficient because: (1) plaintiff did not properly bring a claim invoking federal
 25 question jurisdiction; (2) plaintiff has not invoked this court’s diversity jurisdiction pursuant to 28
 26 U.S.C. § 1332; (3) plaintiff has failed to allege sufficient facts to state a claim for relief under 29
 27 U.S.C. § 654 and 22 U.S.C. § 2755; and (4) construing plaintiff’s *pro se* complaint as broadly as
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1 possible, plaintiff has not stated a plausible claim under Title VII.

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
3 Hoffman's report and recommendation (doc. # 8) be, and the same hereby, is DENIED as moot.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
5 Hoffman's report and recommendation (doc. # 10) be, and the same hereby, is ADOPTED in its
6 entirety.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff's second
8 amended complaint (doc. # 9) be, and the same hereby, is DISMISSED WITH PREJUDICE as
9 recommended by the report and recommendation.

10 DATED December 21, 2012.

11 
12 UNITED STATES DISTRICT JUDGE
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